

The Department's regulation at Section 130.325(b)(1)(D) provides that the graphic arts machinery and equipment exemption includes printing by methods including digital printing. (This is a GIL.)

August 7, 2007

Dear Xxxxx:

This letter is in response to your letter dated April 26, 2007, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

This letter is being sent in reference to the recent purchase of a Savin brand 8110 digital black and white copier S/N # that is being used through our business for the purpose of reselling the output to our customers. The digital copier is connected to our network and can be used to output a variety of job types including copies, punched and stapled as well as folded booklets.

This machine was leased through an out of state leasing company with a fair market value lease. Our company feels that this equipment qualifies for the graphic arts machinery and equipment exemption.

We would appreciate a ruling on the described equipment that could be provided to the leasing company as proof of the tax status.

Please contact me personally if you have any questions or need additional information.

Thank you in advance for your prompt attention to this issue,

DEPARTMENT'S RESPONSE

Please note that the State of Illinois taxes leases differently for Retailers' Occupation Tax and Use Tax purposes than the majority of other states. For Illinois sales tax purposes, there are two types of leasing situations: conditional sales and true leases.

A conditional sale is usually characterized by a nominal or one dollar purchase option at the close of the lease term. Stated otherwise, if lessors are guaranteed at the time of the lease that the leased property will be sold, this transaction is considered to be a conditional sale at the outset of the transaction, thus making all receipts subject to Retailers' Occupation Tax.

A true lease generally has no buy out provision at the close of the lease. If a buy out provision does exist, it must be a fair market value buy out option in order to maintain the character of the true lease. Lessors of tangible personal property under true leases in Illinois are deemed end users of the property to be leased. See the enclosed copy of 86 Ill. Adm. Code 130.220. As end users of tangible personal property located in Illinois, lessors owe Use Tax on their cost price of such property. The State of Illinois imposes no tax on rental receipts. Consequently, lessees incur no tax liability.

The above guidelines are applicable to all true leases of tangible personal property in Illinois except for automobiles leased under terms of one year or less, which are subject to the Automobile Renting Occupation and Use Tax found at 35 ILCS 155/1 et seq.

For your information, we refer you to 86 Ill. Adm. Code 130.325, which is the Department's regulation for the Graphic Arts Machinery and Equipment exemption. The Graphic Arts Machinery and Equipment exemption extends to machinery and equipment, including repair and replacement parts, both new and used and including that manufactured on special order to be used primarily (over 50% of the time) in graphic arts production. The exemption extends to purchases by lessors who will lease the property for use primarily in graphic arts production.

Section 130.325(b)(1)(C) provides that "[t]he exemption applies to machinery and equipment used in graphic arts production processes, as those processes are described in the NAICS. While the NAICS sub sectors referenced in subsection (b)(1)(A) describe types of graphic arts establishments that typically engage in graphic arts production, the exemption is not limited to qualifying machinery and equipment used by the establishments described in the NAICS, but rather, to qualifying machinery and equipment used in the printing processes described in the NAICS (for example, lithography, gravure, flexography, screen printing, quick printing, digital printing and trade services such as prepress and binding and finishing services)."

The summary for Group 323115 provides that "[t]his U.S. industry comprises establishments primarily engaged in printing graphical materials using digital printing equipment. Establishments known as digital printers typically provide sophisticated prepress services including using scanners to input images and computers to manipulate and format the graphic images prior to printing." The Department's regulation at Section 130.325(b)(1)(D) provides that "[t]he exemption includes printing by methods of engraving, letterpress, lithography, gravure, flexography, screen, quick, and digital printing. Section 130.325(b)(1)(E) defines "digital printing" as "the printing of graphical text or images by a process utilizing digital technology, as provided in subsection (b)(4) of this Section."

Please note that Section (b)(5)(E) provides that the use of machinery or equipment to photocopy printed matter will generally not be considered to be graphic arts production. "A copier that is capable of printing images or text transmitted to it in digital form will qualify. However, a copier that produces photocopies by means of xerographic technology is subject to tax."

If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you

wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
Associate Counsel

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